

AMENDED IN SENATE AUGUST 24, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 351**

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**Introduced by Assembly Member Chesbro**  
**(Coauthors: Assembly Members Mitchell and Nielsen)**  
**(Coauthors: Senators Evans and La Malfa)**

February 10, 2011

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An act to amend Section ~~25503.5~~ 14087.98 of the ~~Business and Professions~~ *Welfare and Institutions* Code, relating to alcoholic beverages *Medi-Cal*.

LEGISLATIVE COUNSEL'S DIGEST

AB 351, as amended, Chesbro. ~~Alcoholic beverages: instruction: tastings.~~ *Medi-Cal: county organized health system.*

*Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care health plans, including through a county organized health system. Existing law authorizes the Director of Health Care Services to enter into contracts with one or more managed health care plans to provide a comprehensive program of managed health care services to Medi-Cal beneficiaries residing in specified counties.*

*This bill would require specified counties to be annexed to the closest, contiguous county organized health system, upon approval of the county and the county organized health system.*

~~The Alcoholic Beverage Control Act permits a winegrower, beer manufacturer, or a beer and wine wholesaler to instruct licensees and their employees on the subject of wine or beer, including but not limited to, the history, nature, values, and characteristics of those beverages, as provided.~~

~~This bill would specifically reference the composition of the beer or wine as a subject which may be included in this type of instruction.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 14087.98 of the Welfare and Institutions  
2     Code is amended to read:  
3     14087.98. (a) The purpose of this article is to provide a  
4     comprehensive program of managed health care plan services to  
5     Medi-Cal recipients residing in the following counties that currently  
6     receive Medi-Cal services on a fee-for-service basis: Alpine,  
7     Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,  
8     Humboldt, Imperial, Inyo, Lake, Lassen, Mariposa, Modoc,  
9     Nevada, Mono, Placer, Plumas, San Benito, Shasta, Sierra,  
10    Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba.  
11    (b) The director may enter into exclusive or nonexclusive  
12    contracts on a bid or negotiated basis with one or more managed  
13    health care plans to provide a comprehensive program of managed  
14    health care plan services to Medi-Cal recipients residing in the  
15    counties described in subdivision (a). The director shall give special  
16    consideration to managed health care plans that meet all of the  
17    following:  
18    (1) Have demonstrated experience in effectively serving  
19    Medi-Cal beneficiaries, including diverse populations.  
20    (2) Have demonstrated experience in effectively partnering with  
21    public and traditional safety net health care providers.  
22    (3) Have demonstrated experience in working with local  
23    stakeholders, including consumers, providers, advocates, and  
24    county officials, in plan oversight and in delivery of care.  
25    (4) Have the lowest administrative costs.  
26    (5) Show support from local county officials as demonstrated  
27    by an action of the county board of supervisors.

1 (6) Show recent successful experience with expansion of  
2 managed care to a rural area.

3 (7) Offer a quality improvement program for primary care  
4 providers.

5 (c) Contracts entered into or amended pursuant to this section  
6 shall be exempt from the provisions of Chapter 2 (commencing  
7 with Section 10290) of Part 2 of Division 2 of the Public Contract  
8 Code and Chapter 6 (commencing with Section 14825) of Part 5.5  
9 of Division 3 of Title 2 of the Government Code.

10 (d) The managed health care plans that the department contracts  
11 with under this article shall comply with the requirements of  
12 Section 14087.48 and meet all of the following:

13 (1) Have Medi-Cal managed health care plan contract  
14 experience, or evidence of the ability to meet these contracting  
15 requirements.

16 (2) Be in good financial standing and meet licensure  
17 requirements under the Knox-Keene Health Care Service Plan Act  
18 of 1975 (Chapter 2.2 (commencing with Section 1340) of Division  
19 2 of the Health and Safety Code), if applicable.

20 (3) Meet quality measures, which may include Medi-Cal and  
21 Medicare Healthcare Effectiveness Data and Information Set  
22 measures and other quality measures determined or developed by  
23 the department and the federal Centers for Medicare and Medicaid  
24 Services.

25 (e) The managed health care plans that the department contracts  
26 with under this article shall provide Medi-Cal beneficiaries with  
27 information about enrollment rights and options, plan benefits and  
28 rules, and care plan elements so that beneficiaries have the ability  
29 to make informed choices. This information shall be delivered in  
30 a format and language accessible to beneficiaries. The managed  
31 health care plans shall provide access to providers in compliance  
32 with applicable state and federal laws, including, but not limited  
33 to, physical accessibility and the provision of health plan  
34 information in alternative formats.

35 (f) The department shall conduct a stakeholder process including  
36 relevant stakeholders to ensure that beneficiaries, health care  
37 providers, and managed health care plans have an opportunity to  
38 provide input into the delivery model for these counties and to  
39 help ensure smooth care transitions for beneficiaries.

(g) Enrollment in a Medi-Cal managed health care plan or plans under this article shall be mandatory in order to receive services under Medi-Cal, except as otherwise provided by law.

(h) Each beneficiary or eligible applicant shall be informed that he or she may choose to continue an established patient-provider relationship if his or her treating provider is a primary care provider or clinic contracting with the managed health care plan, has the available capacity, and agrees to continue to treat that beneficiary or eligible applicant. The managed health care plans shall comply with continuity of care requirements in Section 1373.96 of the Health and Safety Code.

(i) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and amend regulations and orders adopted by the department by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until the time regulations are adopted. It is the intent of the Legislature that the department have temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) The department shall adopt emergency regulations no later than July 1, 2014. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section. The initial adoption of emergency regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law.

(3) The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(j) The cost of any program established under this section shall not exceed the total amount that the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

(k) The department shall have exclusive authority to set the rates, terms, and conditions of managed health care plan contracts and contract amendments under this article. The director may include in the contract a provision for quality assurance withholding from the plan payment, to be paid only if quality measures identified in the plan contract are met.

(l) The department shall provide the fiscal and appropriate policy committees of the Legislature with quarterly updates, commencing January 1, 2014, and ending January 1, 2016, regarding the expansion of Medi-Cal managed care into the new counties authorized pursuant to this section. These updates shall include, but not be limited to, continuity of care requests, grievance and appeal rates, and utilization reports for the new counties.

(m) The department shall seek all necessary federal approvals to allow for federal financial participation in expenditures under this article. This article shall not be implemented until all necessary federal approvals have been obtained.

(n) *Notwithstanding subdivision (b), the Counties of Del Norte, Humboldt, Lake, Lassen, Modoc, Shasta, Siskiyou, and Trinity shall be annexed to the closest, contiguous county organized health system, upon the approval of the county and that county organized health system.*

~~(n)~~

(o) This section shall be implemented only to the extent federal financial participation or funding is available.

~~(o)~~

(p) Notwithstanding subdivision (q) of Section 6254 of the Government Code, a contract or contract amendments executed by both parties after the effective date of the act adding this subdivision shall be considered a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be disclosed upon request. This subdivision applies to contracts that reveal the department's rates of payment for health care services, the rates themselves, and rate manuals.

~~(p)~~

(q) To implement this section, the department may contract with public or private entities. Contracts or amendments entered into under this section may be on an exclusive or nonexclusive basis

1 and a noncompetitive bid basis and shall be exempt from the  
2 following:

3 (1) Part 2 (commencing with Section 10100) of Division 2 of  
4 the Public Contract Code and any policies, procedures, or  
5 regulations authorized by that part.

6 (2) Article 4 (commencing with Section 19130) of Chapter 5  
7 of Part 2 of Division 5 of Title 2 of the Government Code.

8 (3) Review or approval of contracts by the Department of  
9 General Services.

10 SECTION 1. Section 25503.5 of the Business and Professions  
11 Code is amended to read:

12 ~~25503.5. (a) A winegrower, beer manufacturer, or a beer and~~  
13 ~~wine wholesaler may, without charge, instruct licensees and their~~  
14 ~~employees, or conduct courses of instruction for licensees and~~  
15 ~~their employees, on the subject of wine or beer, including but not~~  
16 ~~limited to, the history, nature, values, composition, and~~  
17 ~~characteristics of wine or beer, the use of wine lists, and the~~  
18 ~~methods of presenting and serving wine or beer. The winegrower,~~  
19 ~~beer manufacturer, or beer and wine wholesaler may furnish wine~~  
20 ~~or beer and the equipment, materials and utensils that may be~~  
21 ~~required for use in connection with the instruction or courses of~~  
22 ~~instruction.~~

23 ~~(b) A distilled spirits manufacturer, distilled spirits~~  
24 ~~manufacturer's agent, distilled spirits general rectifier, or distilled~~  
25 ~~spirits general importer may, without charge, instruct licensees~~  
26 ~~and their employees, or conduct courses of instruction for licensees~~  
27 ~~and their employees, on the subject of distilled spirits, including,~~  
28 ~~but not limited to, the history, nature, values, and characteristics~~  
29 ~~of distilled spirits, and the methods of presenting and serving~~  
30 ~~distilled spirits. The distilled spirits manufacturer or distilled spirits~~  
31 ~~manufacturer's agent may furnish distilled spirits and the~~  
32 ~~equipment, materials, and utensils that may be required for use in~~  
33 ~~connection with the instruction or courses of instruction.~~

34 ~~(c) A winegrower or distilled spirits manufacturer, or its~~  
35 ~~authorized agent may instruct consumers at an on-sale retail~~  
36 ~~licensed premises authorized to sell its product with the permission~~  
37 ~~of the retail on-sale licensee. The instruction may include, without~~  
38 ~~limitation, the history, nature, values, and characteristics of the~~  
39 ~~product and the methods of presenting and serving the product.~~  
40 ~~The instruction of consumers may include the furnishing of not~~

1 ~~more than three tastings to any individual in one day. A single~~  
2 ~~tasting of distilled spirits may not exceed one-fourth of one ounce~~  
3 ~~and a single tasting of wine may not exceed one ounce. The~~  
4 ~~winegrower or distilled spirits manufacturer, or its authorized agent~~  
5 ~~shall remove any unfinished alcoholic beverages that he or she~~  
6 ~~provided following the instruction. Nothing in this subdivision~~  
7 ~~shall limit the giving away of samples pursuant to subdivision (a)~~  
8 ~~of Section 23386.~~

9 ~~(d) The instruction or courses of instruction, authorized in~~  
10 ~~subdivision (a) or (b), may be given at the premises of the~~  
11 ~~winegrower, beer manufacturer, beer and wine wholesaler, distilled~~  
12 ~~spirits manufacturer, distilled spirits manufacturer's agent, distilled~~  
13 ~~spirits general rectifier, distilled spirits general importer or of a~~  
14 ~~licensee, including an on-sale retail licensee, or elsewhere.~~